

MEMORANDUM

TO: MTC Working Group on Unitary Business/  
Business Income

DATE: May 20, 1997

FROM: Arthur R. Rosen

RE: Initial Thoughts

At our meeting on April 30, a number of participants asked whether the scope of this project should be refining the current business/nonbusiness statutory language and "codifying" the caselaw definitions of "unitary business" or should instead first consider the underlying conceptional/economic/political issue of determining which states should have the right to impose tax on a portion of, or all, income derived from certain categories of activities. The latter approach, which would be a fresh look at where income is earned, may require some type of economic analysis to identify the usual inputs that produce the output of income. For example, one might question the propriety of utilizing simple factor ratios. This is because when the total amount of property, for instance, is greatly dwarfed by payroll, it seems improper to assume each of the two inputs contribute equally to the generation of income.

I suggest that this decision regarding the approach to be taken be made--and then clearly articulated--before any additional work is done.